

COMMONWEALTH OF KENTUCKY
BEFORE THE UTILITY REGULATORY COMMISSION

* * * * *

In the Matter of:

THE JOINT APPLICATION OF THE CITY OF)
WHITE PLAINS, KENTUCKY, A MUNICIPAL)
CORPORATION OF THE SIXTH CLASS SITU-)
ATED IN HOPKINS COUNTY, KENTUCKY, AND)
THE WHITE PLAINS WATER DISTRICT OF)
HOPKINS COUNTY, BEING A DE JURE WATER)
DISTRICT ORGANIZED AND EXISTING BY)
VIRTUE OF AN ORDER OF THE HOPKINS)
COUNTY COURT AND BEING A REGULATED)
UTILITY, THAT THE UTILITY REGULATORY)
COMMISSION OF KENTUCKY APPROVE THE)
SALE OF AND THE PURCHASE BY SAID)
CITY OF THE WATERWORKS AND THE WATER)
DISTRIBUTION SYSTEM OWNED AND OPERATED)
BY SAID WATER DISTRICT IN AND ABOUT)
THE CITY OF WHITE PLAINS, KENTUCKY,)
PROVIDING RETAIL WATER SERVICES TO)
CUSTOMERS IN THE CITY OF WHITE PLAINS,)
KENTUCKY, AND THE ENVIRONS THEREOF.)

CASE NO. 7665

O R D E R

Preface

On November 20, 1979, White Plains Water District ("Seller") and the City of White Plains ("Purchaser") filed with this Commission an application seeking approval of the sale and purchase of the White Plains Water District in accordance with the terms of an Agreement dated September 28, 1979. The Seller serves customers in and about the City of White Plains, Hopkins County, Kentucky, and the environs thereof.

This matter was set for hearing at the Commission's offices in Frankfort, Kentucky, on January 15, 1980. All parties of interest were notified with the Consumer Protection Division of the Attorney General's Office being permitted to intervene in this matter. At the hearing certain requests for additional information were made by the Staff. This information has been received and the entire matter is now considered to be fully submitted for a final determination by this Commission.

Findings in this Matter

The Commission, after a review of the record and being fully advised is of the opinion and finds:

1. That on September 28, 1979, the Seller and the Purchaser entered into an Agreement whereby the Seller agreed to sell and the Purchaser agreed to purchase all assets and properties, including but not limited to cash, notes, accounts receivable, security interests, inventories, equipment, furniture and fixtures, vehicles, machinery, real property, accrued interest, deposits and intangible assets, which the Seller owns or to which it was entitled as of the date of the Agreement. Further that the Purchaser will pay an amount equal to the entire outstanding indebtedness of the Seller, including accrued interest, as such indebtedness existed on the September 28, 1979 date of the Agreement. In addition the Purchaser will assume and discharge all debts, liabilities and obligations of the Seller which have arisen as of the September 28, 1979 date of the Agreement. The Purchaser also agrees to indemnify the Seller against all such debts, liabilities and obligations.

2. That the Purchaser is ready, willing and able to provide for the operation and maintenance of the Seller's existing water system in the area set forth in the application.

3. That the sale of the White Plains Water District does not adversely affect the public interest and should be approved.

4. That the Purchaser will adopt the rates approved by this Commission by the Order entered March 20, 1974 in Case No. 5956 for services provided to those customers currently being served by the Seller.

5. That the Seller should file with the Commission the appropriate journal entries effecting the sale of the White Plains Water District.

6. That on or about October 1, 1979, the Seller, without the permission or approval of the Commission increased the rates charged for water service in the amount of \$2.75 per customer per month. Further, that the new rate is illegal in that it is higher than the rate authorized by the Commission by Order entered March 20, 1974 in Case No. 5956.

7. That the Purchaser by letter to this Commission dated January 17, 1980, has agreed to accept the responsibility to refund any and all funds collected by the Seller in excess of those authorized by the Commission's Order entered March 20, 1974 in Case No. 5956.

8. That all monies collected from the Seller's customers by the unauthorized rates subsequent to October 1, 1975 which exceeded the amounts that would have been collected on the basis of the Seller's authorized rates should be refunded by the Purchaser to the customers from which said excess monies were collected.

9. That the Seller should, within thirty (30) days of the date of this Order, provide a complete listing to this Commission of all customers to whom refunds are due and said listing should also include the amount of refund due to each affected customer.

10. That the Purchaser should, within thirty (30) days of the date of this Order, provide this Commission with a plan detailing how and when affected customers will be refunded.

Orders in this Matter

The Commission, on the basis of the matters hereinbefore set forth and the evidentiary record in this case:

HEREBY ORDERS that the City of White Plains is hereby authorized to purchase the White Plains Water District in accordance with the terms of sale as set forth in the Agreement dated September 28, 1979, attached hereto and made a part hereof as Appendix "A".

IT IS FURTHER ORDERED that the rates for water service shall remain the same as those set forth by this Commission's Order entered March 20, 1974 in Case No. 5956.

IT IS FURTHER ORDERED that, as a condition of sale, the City of White Plains shall refund to the affected customers all monies collected subsequent to October 1, 1979, which exceeded the amounts that would have been collected on the basis of rates approved by this Commission's Order entered March 20, 1974 in Case No. 5956.

IT IS FURTHER ORDERED that the White Plains Water District shall provide the City of White Plains and this Commission within thirty (30) days of the date of this Order, a listing of all customers who shall receive refunds. Said listing shall also include the amount of refund due to each customer.

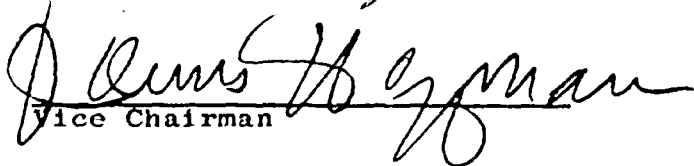
IT IS FURTHER ORDERED that the City of White Plains shall provide this Commission, within thirty (30) days of the date of this Order a plan detailing how and when the affected customers shall be refunded.

IT IS FURTHER ORDERED that the White Plains Water District shall file with the Commission the appropriate journal entries effecting the sale of the White Plains Water District.

Done at Frankfort, Kentucky, this 19th day of February, 1980.

UTILITY REGULATORY COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary

APPENDIX "A"

APPENDIX TO AN ORDER OF THE UTILITY REGULATORY
COMMISSION IN CASE NO. 7665 DATED FEBRUARY 19, 1980.

A G R E E M E N T

THIS AGREEMENT is made this 28TH day of September, 1979,
by and between the WHITE PLAINS WATER DISTRICT, Hopkins County,
Kentucky (the "District") and the CITY OF WHITE PLAINS, KENTUCKY
(the "City"):

WHEREAS, the City Council of the City at its September 14, 1979
meeting voted its approval to a proposal to purchase all of the
assets and assume all of the liabilities of the District and has duly
authorized and approved the purchase of all of the assets of the District
and the assumption of all the liabilities of the District; and

WHEREAS, the City Council of the City has indicated its intent
to issue WATERWORKS Revenue Bonds of the City (the "Bonds"), the
proceeds of which are to be used to retire all of the outstanding
debt of the District and to pay all of the costs of issuance of the
Bonds; and

WHEREAS, the District desires to sell all of its assets to the
City; and

WHEREAS, the Board of Commissioners of the District has duly
authorized and approved the sale of all of the District's assets
and liabilities to the City;

NOW, THEREFORE, for and in consideration of the mutual covenants
contained herein, the City and the District agree as follows:

1. That the District shall sell, assign and transfer to the City
all of its assets and properties, as more particularly described in
Exhibit "A" attached hereto and hereby incorporated into this Agreement,
and that the City shall purchase all of the District's assets and
properties, including, but not limited to cash, notes, accounts re-
ceivable, security interests, inventories, equipment, furniture and
fixtures, vehicles, machinery, real property, accrued interest, deposits
and intangible assets, which the District owns or to which it was en-
titled on the date first above written.

2. In consideration for such sale, the City shall pay an amount equal to the entire outstanding indebtedness of the District, including accrued interest, as such indebtedness existed on the date first above written.

3. In further consideration for such sale, the City shall assume and discharge all debts, liabilities and obligations of the District which have arisen to the date first above written. The City also agrees to indemnify the District against all such debts, liabilities and obligations.

4. This Agreement is subject to, and contingent upon, the approval of the Kentucky Public Service Commission. If, without any fault on the part of the District or the City, the City is unable to procure the approval of the Kentucky Public Service Commission, this Agreement shall be null and void and no claim whatsoever shall be made by the City against the District or the District against the City.

5. This instrument contains the entire agreement between the parties hereto with respect to the transactions contemplated herein.

IN WITNESS WHEREOF, the parties hereto have agreed to and signed this agreement the date first above written.

THE CITY OF WHITE PLAINS, KENTUCKY

By David E. Wright
Chairman

ATTEST:

William L. Lillington
Secretary

THE WHITE PLAINS WATER DISTRICT

Don L. Lewis

Commissioners